

**IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE MIDDLE DISTRICT OF
ALABAMA, EASTERN DIVISION**

2007 DEC 12 A 9:25

JRA:R. HARRISON
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA.

GENE COGGINS Pro st
Plaintiff

V:

Civil Action No. 3:07 CV -1010 MHT

MIKE COGGINS and
DIANNE HARRELSON
Defendant

**AMENDED COMPLAINT AND MOTION FOR
DEFAULT AND DEFAULT JUDGMENT**

COMES NOW THE PLAINTIFF, GENE COGGINS WITH HIS AMENDED
COMPLAINT AND MOTION FOR DEFAULT AND DEFAULT JUDGMENT. ON PAGE
ONE OF THE RECOMMENDATIONS OF THE MAGISTRATE JUDGE THE MOTION TO
USE THE APPENDIX SYSTEM IS DENIED, THIS AUTOMATIC PLACES THIS CASE IN
THE ONLY OTHER FORM OF COURT PRECEDING A TRIAL BY JURY. THIS
DEMAND FOR JURY TRIAL IS GUARANTEED UNDER THE DUE PROCESS OF LAW
AS GIVEN IN THE CONSTITUTION OF THE UNITED STATES. ANY JUDGE OR
COURT ORDERS THAT DENIES THIS PLACES THAT PERSON IN A CRIMINAL
POSITION, BY BREAKING OATH OF OFFICE AND PERJURY. MAKES THE

ORIGINAL COMPLAINT AND SUMMONS WAS SENT TO THE DEFENDANTS BY CERTIFIED MAIL IN AND ACCORDING TO THE FEDERAL RULES OF CIVIL PROCEDURES 3, 4, 5. THIS MAKES THE JUDGES STATEMENT ON PAGE NO 01. "THE COURT CONCLUDES THAT DISMISSAL OF THE COMPLAINT PRIOR TO SERVICE OF PROCESS," A COMPLETE LIE AND ANOTHER ATTEMPT TO DENY MY DUE PROCESS OF LAW. WHEN A RULE OF LAW IS COVERED BY THE GUARANTEED DUE PROCESS OF LAW, AS GIVEN IN THE CONSTITUTION OF THE UNITED STATES, GIVES EVERY CITIZEN, (INCLUDING ME), THAT HAS BEEN DENIED ANY PART OF THIS PROCESS, HAS THE RIGHT TO FILE HIS COMPLAINT IN FEDERAL COURT, THE RIGHT FOR EVERY CITIZEN TO BE HEARD AND HAVE THEIR DAY IN COURT, WITH THIS CONCEPT OF "THE DUE PROCESS OF LAW", IS EMBEDDED IN THE FIFTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES, AND HAS PRESTIGE OVER ANY OTHER RULE OF LAW, LIKE THE ONE THIS COURT CONSTANTLY USES AS FOUND IN 28 U. S. C. s/s 1915 (e) (2) (b), IMPROPER AND ILLEGALLY USED TO PROP UP THE OLD BUDDY, BUDDY SYSTEM. THESE RIGHTS AS GIVEN IN THE GUARANTEED DUE PROCESS OF LAW HAVE BEEN PLACED IN THE CONSTITUTION OF THE UNITED STATES THAT NO COURT, JUDGE OR ANY FORM THERE OF CAN LEGAL CHANGE, DENY, OR DISMISS WITHOUT PLACING THEM SELF IN THE POSITION OF BREAKING THE OATH OF OFFICE THEY TOOK. THIS LEADS TO A FELONY AND PERJURY CONVICTION.

THE WAY THIS CASE HAS BEEN HANDLED PROVES THIS, WHERE ON THE FIRST PAGE FOOTNOTES YOU STATED THAT "THIS COURT AT ANYTIME MAY

DISMISSED ", HERE AGAIN IS ANOTHER ILLEGAL METHOD THIS COURT HAS USED TO PROTECT THEIR BUDDY, BUDDY SYSTEM OF JUSTICE, FOR I PLACED ALL COMPLAINTS AND SUMMONS IN THE UNITED STATES MAIL, SENT CERTIFIED WITH RECEIPT, RETURNED TO CLERK OF THE COURT, AS GIVEN IN THE FEDERAL RULES OF LAW 3, 4, 5, CIVIL PROCEDURES. MAKING EVERY ILLEGAL ATTEMPT THIS COURT MADE TO BLOCK THE DUE PROCESS OF LAW WITH EVERY ONE OWN PAPER WORK AS PROOF OF THE GUARANTEED CONSTITUTIONAL RIGHT VIOLATION, PROVIDING MORE EVIDENCE TO THE UNITED STATES DEPARTMENT OF JUSTICE.

AGAIN ON THE FIRST PAGE, THIS COURT HAS TRIED TO STOP EVERY CASE I HAVE FILED WITH THE ILLEGAL ORDERS OF PREVIOUS APPEAL, WITHOUT ARGUABLE MERITS, THIS IS WHY I FILED A MOTION FOR THE USE OF THE APPENDIX SYSTEM, BECAUSE GUARANTEED CONSTITUTION RIGHTS ARE NOT ARGUABLE, BUT ARE SET UP BY THE DUE PROCESS OF LAW UNDER THE CONSTITUTION TO BE PRESENTED IN THE FEDERAL COURT SYSTEM, OR PLACED ON THE SHORT TERM CALENDAR FOR A TRIAL BY JURY.. WHERE YOU STATED THAT "FAILS TO STATE A CLAIM", A GUARANTEED CONSTITUTION RIGHT IS NOT A JOKE, BUT GIVEN TO ALL CITIZENS BY THE UNITED STATES GOVERNMENT. THE STATUTES PROVIDE THAT THIS CANNOT BE USED TO PREVENT A CASE FROM BEING HEARD IN ANY COURT. "SEEKS MONETARY RELIEF AGAINST A DEFENDANT WHO IS IMMUNE FROM SUCH RELIEF 28 U. S. C. s/s 1915 (e)(2)(b).. THIS IS NOT THE PREVAILING LAW, GOVERNING LAW SUITS,.

LOOK IN THE CONSTITUTION OF THE UNITED STATES AT THE 11TH AMENDMENT, WHERE EVERY CITIZEN CAN SUE OR BE SUED BY ANY CITIZEN OF THE SAME STATE, WITH NO IMMUNITY GIVEN FOR ANY ONE, FOR THIS IS THE PREVAILING AND DOMINATE LAW THAT OVER RIDES ALL OTHER.. "PLAINTIFF COMPLAINT FAILS TO STATE A SUBSTANTIVE DUE PROCESS CLAIM UPON WHICH RELIEF MAY BE GRANTED", . AGAIN ON THE FIRST PAGE OF MY COMPLAINT STATED OF A CONSTITUTION RIGHT VIOLATION THAT CAN ONLY PLACE THIS CASE IN THE FEDERAL COURT SYSTEM..

ON MY ORIGINAL COMPLAINT I LISTED THIS ACTION AS CRIMINAL, BECAUSE OF THE MONETARY AMOUNT INVOLVED, I USED THE 7th AMENDMENT OF THE UNITED STATES CONSTITUTION AS MY SOURCE OF INFORMATION, THAT REQUIRES A TRIAL BY AM IMPARTIAL JURY, EITHER **CIVIL OR CRIMINAL**, WHETHER THEY BE ISSUES OF LAW OR FACTS BEFORE A COURT THAT HAS PROPER JURISDICTION. FED. R. CIVIL P. 38 (a), 48, 59 Crim. P. 23, 33.. WHERE THIS COMPLAINT WAS ORIGINAL FILED UNDER CRIMINAL ACTION , TO SATISFY THIS COURT, CHANGE THIS ONE WORD TO CIVIL ACTION AGAINST HIS SERVICE WAS MADE UPON THE DEFENDANTS IN AND ACCORDING TO THE FEDERAL RULES OF CIVIL PROCEDURES AS REQUIRED BY ACTUAL PERSONAL DELIVERY, MY CERTIFIED MAIL, OR PUBLISHED IN THE LOCAL NEWS PAPER. I CHOSE TO USE THE CERTIFIED MAIL WITH RETURN RECEIPT ADDRESSED BACK TO THE CLERKS OFFICE. THIS REQUIRED METHOD KEEPS THE COURT FROM ILLEGAL STALLING OF THE DUE PROCESS OF LAW. THIS WAS SENT BY

CERTIFIED MAIL AS REQUIRED AND THIS CANNOT BE USED AS ANY EXCUSE TO DENY THE SERVICE OR THE TIME REQUIRED FOR THE REPLY. WITH NO REPLY RETURNED WITHIN THE PROPER TIME LIMIT, DEFAULT AND DEFAULT JUDGMENT MUST BE PLACED AGAINST THE DEFENDANTS.. WHEN NO ANSWER IS RECEIVED FROM THE DEFENDANTS THE PLAINTIFF IS TO FILE THIS MOTION FOR DEFAULT AND DEFAULT JUDGMENT, AND THE DEFENDANTS HAVE TO FORBEAR ALL OF THE JUDGMENT AS REQUESTED IN THE COMPLAINT. THE CLERK IS REQUIRED BY LAW TO FILE THIS MOTION AGAINST THE DEFENDANTS. Fed. R. Civil P. 4, 5 Crim. P. 4, 449. Chemical Specialties Sales Corp. Industrial Division. V: Basic Inc. D. C. Conn. 296, F. Supp. 1106, 1107. Fed. R. Civil P. 4(e), Must Comply To The Fair Labor Standard Act..

CONCLUSION;

WITH ALL OF THE ILLEGAL ATTEMPTS MADE BY THIS COURT TO STOP OR DESTROY EVERY CASE THAT I HAVE PRESENTED, I AM SURE THAT THIS WILL BE NO DIFFERENT. THE ESTABLISHED DUE PROCESS OF LAW AS GUARANTEED BY THE UNITED STATES CONSTITUTION DOES NOT EXIST HERE. FOR THESE LAWS FORBID CONDEMNATION WITHOUT A HEARING, WHERE EVERY CITIZEN HAS THE RIGHT TO BE HEARD IN ANY COURT. Pettit V:: Penn. La, App. 180, So. 2d, 66, 69. W WITH BOTH SIDES BEING REPRESENTED THERE, WITHOUT ANY PRE- JUDGING ON ANY CASE. WHERE BIAS AND FORE JUDGMENT, PRECONCEIVE OPINIONS ARE LEANING TOWARD ONE SIDE OF A CAUSE ,FOR SOME REASONS OTHER THAN CONVICTION OF EQUAL JUSTICE. THAT WHICH DISQUALIFIES JUDGES (LIKE THE ONES INVOLVED IN MY CASES), IS CONVICTION STATE OF MIND WHICH

SWAYS JUDGMENT AND RENDERS JUDGES UNABLE TO EXERCISE HIS FUNCTIONS IMPARTIALLY IN ANY PARTICULAR CASE. IT REFERS TO MENTAL ATTITUDE OR DISPOSITION OF THE JUDGE TOWARD A PARTY TO THE LITIGATION AND NOT TO ANY VIEWS THAT HE MAY ENTERTAIN REGARDING THE SUBJECT MATTER INVOLVED. State ex rel Mitchell V: Sage Store Co. 157 Kan. 622, 143, P. 2d, 652, 655..

LOOK AT THE TIME THIS COURT HAS DISMISSED OR DENIED A BILL THAT I PRESENTED, MEANS AS A DECLARATION THAT I HAVE NO RIGHTS OR ANY PRIVILEGES TO BE CONSIDERED AS THEREBY WAIVED OR LOST. THESE ERRORS SUBSTANTIALLY EFFECT APPELLANT'S LEGAL RIGHTS AND OBLIGATIONS.

Erskine V: Upham 56 Cal. App. 2d, 235, 132, P. 2d, 219, 228; Trepanier V: Standard Min & Mill Co. 56 Wyo. 29, 123, P.2d, 378, 380. SUCH ACTIONS MAY BE GROUNDS FOR NEW TRIAL AND REVERSAL OF JUDGMENT. THIS APPLIES TO EVERY CASE THAT I HAVE PRESENTED IN THIS COURT. Fed. R. Civil P. 59 A PREJUDICIAL ERROR IS ONE WHICH AFFECTS THE FINAL RESULTS OF THE TRIAL .State V: Gilcrest, 15 Wash. App. 892, 552, P. 2d, 690, 693.. Sheppard V: Maxwell 384, U. S. 333, 86, S. Ct. 1507, 16, L. E. D. 2d, 600. ..

FROM THE RECOMMENDATIONS YOU SENT ME, I CAN SEE THAT JUDGE MARK FULLER, ADVISED YOU TO DISPOSE OF THIS, FOR EVERY WORD IS A REPEAT OF HIS PRIOR ORDERS.

Gene Coggins
GENE COGGINS

CERTIFICATE OF SERVICE

I, GENE COGGINS, HEREBY CERTIFY THAT I HAVE PLACED IN THE UNITED STATES MAIL A COPY OF THIS FOREGOING ACTION, TO ALL INVOLVED IN THIS CASE, TO THE LAST KNOWN ADDRESS, WITH PROPER POSTAGE, AND SENT UPON THIS DAY;

Gene Coggins
GENE COGGINS

DATE December 11, 2007